



# U.S. DEPARTMENT of STATE

## Tuvalu

### Country Reports on Human Rights Practices - [2004](#)

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Tuvalu is a parliamentary democracy. The head of state is Queen Elizabeth II, represented by the Governor General, who must be a citizen of the country. The country has no formal political parties. In 2002, citizens elected a 15-member unicameral Parliament in free and fair elections. A prime minister is selected by Parliament. The judiciary is independent.

The civilian authorities maintained effective control of the 70 member police constabulary, the country's only security force. There were no reports that security forces committed human rights abuses.

The country has a population of approximately 10,000 persons on 9 atolls, scattered over approximately 350,000 square miles of the central South Pacific Ocean, containing approximately 10 square miles of dry land. The primarily subsistence economy relied mainly on coconuts, taro, and fishing. Remittances from citizens working abroad, the sale of postage stamps, and the sale of fishing licenses to foreign vessels provided additional foreign exchange. The country also relied on interest income generated by the Tuvalu Trust Fund and sales of the ".tv" Internet country designation, which earned approximately \$3.3 million in 2003. The country's isolation limited opportunities for economic development.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. Traditional customs and social behaviors, often considered equivalent to law, have led to some social discrimination. Allegations of nonaccountability, financial mismanagement, and conflicts of interest regarding officials of all four government ministries continued to be voiced. Parliamentary travel, management of the country's Internet designation rights, and the acceptances of high-value gifts by government officials have also been criticized. Women traditionally occupy a subordinate role, with limits on their job opportunities.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and there were no reports that government officials employed them. Local hereditary elders exercised considerable traditional authority, including the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, during the year, there were no reports of corporal punishment.

The country has one minimum-security prison facility, which is segregated by sex. Adults were held at this facility, and children were remanded to their family's custody. The men's section could accommodate 35 inmates, the women's section 20. During the year, the number of prisoners was far below the maximum capacity; there were no female prisoners at year's end. There also was a holding cell at the police station for detentions of less than 24 hours. Pretrial detainees were usually released on their own recognizance. Pretrial detainees charged with a serious crime, such as homicide, could be held in the prison; in practice, this did not occur.

Detentions longer than a week were rare; more commonly, a person was jailed overnight on charges of inebriation. While prison

conditions were somewhat Spartan, they generally met international standards, and complaints were minimal.

The question of prison visits by human rights groups did not arise. Visits by church groups and family members were permitted.

#### d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police may hold a person for no more than 24 hours without a hearing before a magistrate. There were no reports of police abuse. Warrants are required but rarely were necessary in a state with a population so small that the police as a group literally knew every citizen.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

There is a two-tier judicial system. Higher courts include the Privy Council, the Court of Appeal, and the High Court. Lower courts consist of senior and resident magistrates, the Island Court, and the Land Court. The High Court is presided over by an expatriate Chief Justice appointed by the Governor General and generally holds court once a year.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Constitution provides that the accused must be informed of the nature of the offense with which they are charged and provided the time and facilities required to prepare a defense. The People's Lawyer (public defender) expressed concern that bureaucratic delays sometimes resulted in several months passing before an accused was informed of the charges. The right to confront witnesses, present evidence, and appeal convictions is provided by law. Procedural safeguards are based on English common law. The services of the independent People's Lawyer are paid by the Government and available to all citizens without charge.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the media, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In 2001, the country's sole radio station, formerly controlled by the Government, was converted by statute to the status of a public corporation, the Tuvalu Media Corporation (TMC). According to the TMC's charter, the Secretary to Government serves as the Chairman of the Board, and the Prime Minister's duties include oversight of the TMC. In practice, all copy to be broadcast by the TMC must be approved by the Secretary to Government, and he reportedly has blocked or delayed stories favorable to the opposition. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

There were no government restrictions on Internet access.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Unlike in the previous year, there were no reports that villages banned new religious groups. In 2003, the island council of Nanumanga reportedly banned the newly formed Tuvalu Brethren Church. The head of the Tuvalu Brethren Church filed a complaint against the island council. In September, the High Court heard the case but at year's end had not rendered a decision.

For a more detailed discussion, see the [2004 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2004/41663.htm).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government generally observed this prohibition.

The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person has applied for refugee status, and the issue of the provision of temporary protection has never arisen. The Government has not formulated a policy regarding refugees, asylees, or temporary protection. There were no reports of the forced return of persons to a country where they feared persecution.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens freely and directly elect a 15-member unicameral Parliament whose normal term is 4 years. Each of the country's nine atolls is administered by a six-person council, also elected by universal suffrage to 4-year terms. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the Members of Parliament (M.P.s), and four other ministers, appointed and removed from office by the Governor General, with the advice of the Prime Minister. The Prime Minister may appoint or dismiss the Governor General on behalf of the British monarch. The Prime Minister may be removed from office by a parliamentary vote of no confidence.

Elections held in 2002 were free and fair. Of the 15 members elected to Parliament, 6 were serving their first term. The new Parliament elected Saufatu Sopoanga, a former civil servant, as Prime Minister. In August, Sopoanga lost a parliamentary vote of confidence. However, he continued to hold office in a "caretaker" capacity until October 12, when Maatia Toafa, a Sopoanga ally, was named Prime Minister.

There were no formal political parties; however, Parliament informally was divided between a faction that supported the Sopoanga Government and a faction that did not.

From November 2002 to October 2003, then Prime Minister Sopoanga refused to convene Parliament to avoid a likely no-confidence vote that would have removed him from power. Further delaying tactics kept Sopoanga in office, even though for most of that period, the opposition held a majority in Parliament. However, the August election, occasioned by a vote of no confidence in Sopoanga, replaced pro-government parliamentarians with members of the former opposition.

Laws against corruption are weak. Allegations of nonaccountability, corrupt travel, financial mismanagement, and conflicts of interest regarding officials of all four government ministries continued to be voiced. Parliamentary travel to Taiwan, management of the country's ".tv" rights, and acceptance of high-value gifts by government officials have also been criticized.

Laws provide for annual, public, ministerial reports, but publication was spotty and often nonexistent. The Auditor-General's Office, responsible for providing government oversight, was underfunded, lacked serious parliamentary support, and as a consequence continued to lack adequate staff and resources.

Participation by women in government and politics was limited, largely due to cultural traditions. There were no female M.P.s or cabinet ministers.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

While no known barriers block their establishment, there were no local nongovernmental organizations concerned solely with human rights. Some human rights advocates operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The People's Lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution was supported by the Government, which frequently sought its advice. At times, it has been critical of the Government; however, there have been no allegations of human rights violations committed by the Government and no known requests for investigations.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin, and the Government observed these prohibitions. However, a scarcity of wage-paying jobs and the traditional culture limited women's job opportunities.

Women

Violence against women was rare. Domestic violence was relatively infrequent and was not a source of societal concern. Rape is a crime punishable by a minimum sentence of 5 years' imprisonment; however, spousal rape is not included in the legal definition of this offense. The People's Lawyer has sought to broaden public knowledge of women's rights, particularly in regard to spousal rape and domestic abuse.

Prostitution and sex tourism are illegal. While there are no laws prohibiting sexual harassment, the Penal Code provides specific recourse against indecent behavior, which includes lewd touching.

Women increasingly held positions in the health and education sectors and were more active politically. In an economy with few wage-paying jobs, women held the clear majority of clerical and retail positions. In 2000, the Government established a Women's Department in the Ministry of Internal Affairs; however, it took no significant action during the year.

#### Children

The Government provided commensurate funding for children's welfare within the context of its total available resources. Education was compulsory for children through age 13. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women.

The Government provided free medical care for children through age 18.

There were no reports of child abuse.

#### Trafficking in Persons

The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

#### Persons with Disabilities

There were no known reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. There are no mandated accessibility provisions for persons with disabilities.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses, who totalled fewer than 1,000 persons, were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 600 members, who worked on foreign merchant vessels.

##### b. The Right to Organize and Bargain Collectively

The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice private sector employers set wages. Both private and public sectors generally used nonconfrontational deliberations in a local, multipurpose meeting hall to resolve labor disputes rather than use legal procedures.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

##### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

##### d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under the age of 14 from working. The law also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 are not allowed to enter into formal contracts,

including work contracts. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work

The minimum wage, set by the Government, was sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public (government) sector was \$91.65 (\$A130), regardless of sex and age. In most cases, the private sector adopted the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. By law, the workday is set at 8 hours. The majority of workers were outside the wage economy.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor, Works, and Communications is responsible for the enforcement of these regulations, but in practice it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.